

Hon. Mary K. Dimke

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT SPOKANE

ALEX MCVICKER and MARK
MOSS, individually and on behalf of
all others similarly situated,

Plaintiffs,

vs.

GIGA WATT, INC.; *et al.*,

Defendants,

RAYMOND BALESTRA, individually
and on behalf of all others similarly
situated,

Plaintiffs,

vs.

GIGA WATT, INC., ET AL.

Defendants.

No. 2:18-CV-00100-MKD

No. 2:18-CV-00103-MKD

JOINT REPORT ON STATUS OF
BANKRUPTCY PROCEEDINGS

1 On December 14, 2018, proceedings in the above-captioned matter were
 2 stayed based upon the filing by Defendant Giga Watt, Inc. of a Chapter 11
 3 bankruptcy petition in the matter *In re Giga Watt, Inc.*, U.S. Bankruptcy Court for
 4 the Eastern District of Washington, Case No. 18-03197-FPC. (Dkt 35).

5 On August 29, 2024, the Parties were directed to file a status report
 6 advising the Court as to the status of the bankruptcy proceedings. (Dkt 44).

7 The Parties' joint status report on the pending bankruptcy proceedings,
 8 is provided below.

9 The Giga Watt, Inc. bankruptcy has a long and complicated history and is
 10 still ongoing. The bankruptcy has spawned four adversary proceedings, two of
 11 which have been resolved.¹ There have also been two appeals to the Ninth
 12 Circuit Court of Appeals, one of which has resolved after going to the Ninth
 13 Circuit Bankruptcy Panel; *In re Giga Watt, Inc.*, No. 2:18-BK-03197, 2021 WL
 14 321890, at *1 (B.A.P. 9th Cir. Jan. 29, 2021) (affirming denial of reconsideration
 15 of order granting trustee's motion for sale of certain assets to a third party free
 16 and clear); and one of which that sought to compel arbitration was dismissed as
 17 moot. *Matter of Giga Watt, Inc.*, No. 22-35104, 2022 WL 17883793 (9th Cir.
 18 Dec. 23, 2022).

19 Currently, the last substantive docket entry in the primary bankruptcy
 20 matter (bankruptcy docket 1054) was entered 08/27/24, and it is the bankruptcy
 21 trustees objection to an attorney's contingency fees application. There are
 22 ongoing proceedings in the primary bankruptcy, two ongoing adversary
 23

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 25 ¹ *Waldron v. Carlson and Jane Doe I et al*, Case No. 19-80012-FPC. (closed); *Dam v. Waldron et al*,
 Case No. 20-80020-FPC (closed); *Waldron v. Perkins Coie LLP et al*, Case No. 20-80031-FPC; *Waldron v. Dam*,
 Case No. 21-80053-FPC.

1 proceedings, and an ongoing appeal. Since its inception as a voluntary
2 bankruptcy proceeding under Chapter 11, this bankruptcy has been converted into
3 a Chapter 7 proceeding. There have been limited orders granting certain parties
4 relief from the automatic bankruptcy stay, including one to settle another class
5 action against Giga Watt in this Court, but no general lifting of the bankruptcy
6 stay, which we understand to remain in force.

7 There are currently ten opinions on Westlaw related to this case, mostly
8 from the bankruptcy court. They are provided below in chronological order.

9 • *Balestra v. Giga Watt, Inc.*, No. 2:18-CV-00103-SMJ, 2018 WL
10 8244006, at *3 (E.D. Wash. June 28, 2018) (Order Granting Motion for
11 Appointment as Lead Plaintiff and Approval of Selection of Counsel).

12 • *In re Giga Watt, Inc.*, No. 18-03197-FPC7, 2020 WL 6157104
13 (Bankr. E.D. Wash. Oct. 20, 2020), *aff'd sub nom. Dam v. Waldron*, No. 2:20-
14 CV-00391-SAB, 2021 WL 6137346 (E.D. Wash. July 30, 2021) (Findings and
15 Conclusions for Order Authorizing Trustee's Sale of Moses Lake Equipment).

16 • *Dam v. Waldron*, No. 2:20-CV-00391-SAB, 2021 WL 6137299
17 (E.D. Wash. Jan. 21, 2021) (denying motion to stay bankruptcy court order
18 approving the sale of property).

19 • *In re Giga Watt, Inc.*, No. 2:18-BK-03197, 2021 WL 321890 (B.A.P.
20 9th Cir. Jan. 29, 2021) (affirming denial of reconsideration as to order granting
21 trustee's motion for the sale of certain assets to a third party free and clear).

22 • *In re Giga Watt, Inc.*, No. 18-03197-FPC7, 2021 WL 1584527
23 (Bankr. E.D. Wash. Apr. 22, 2021) (Order Holding Adversary Proceeding is Not
24 a Core proceeding).

1 • *In re Giga Watt, Inc.*, No. 18-03197-FPC7, 2021 WL 1597870
2 (Bankr. E.D. Wash. Apr. 22, 2021) (Order denying Motion to Compel Arbitration
3 and Stay).

4 • *In re Giga Watt, Inc.*, No. 18-03197-FPC7, 2021 WL 15877238
5 (Bankr. E.D. Wash. Apr. 22, 2021) (Order Granting Trustee's Motion to Strike
6 Jury Demand).

7 • *Dam v. Waldron*, No. 2:20-CV-00391-SAB, 2021 WL 6137346
8 (E.D. Wash. July 30, 2021) (Order on Appeal Affirming Approval of the Sale of
9 Moses Lake Equipment and Related Relief, and Approving Bid Procedures).

10 • *In re: Giga Watt, Inc.*, No. 18-03197-FPC7, 2021 WL 4436941
11 (Bankr. E.D. Wash. Sept. 27, 2021) (finding violation of automatic stay, denying
12 sanctions, and identifying claims plaintiff could proceed on in bankruptcy).

13 • *Matter of Giga Watt, Inc.*, No. 22-35104, 2022 WL 17883793, at *1
14 (9th Cir. Dec. 23, 2022) (dismissing as moot appeal of denial to compel
15 arbitration in an adversary).

16 Some substantive events and orders in the bankruptcy court, followed by
17 the bankruptcy court's docket numbers, are provided as follows:

18 11/19/18 Voluntary Petition for Chapter 11 bankruptcy filed. (1)

19 11/22/18 Amended Voluntary Petition for Chapter 11 bankruptcy filed. (11).

20 12/12/18 Statement of financial affairs filed. (42).

21 12/19/18 Appointment of Unsecured Creditors' Committee. (56).

22 12/26/18 Order Denying Debtor in Possession's Motion for Interim and Final
23 Orders Authorizing Debtor to Incur Post-Petition Debt (74).

24 01/18/19 Order Granting Motion to Appoint Chapter 11 Trustee. (121).
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1 01/23/19 Appointment of Trustee.

2 01/23/19 Amended Statement of Financial Affairs filed. (142).

3 01/24/19 Order Approving Appointment of Chapter 11 Trustee. (146)

4 01/28/19 Deadline for filing claims

5 03/04/19 Order Granting Motion to Extend Deadline to File Proofs of Claim to

6 April 19, 2019, and Approving Procedure Relating to Notice to

7 Token Holders and Miner Owners. (219).

8 04/16/19 Order Granting Stipulated Motion Between the Chapter 11 Trustee

9 and the Port of Douglas County Regarding the Lease, the Application

10 of the Surety Deposit to the Claims of the Port of Douglas County,

11 and the Modification of the Automatic Stay. (276).

12 04/22/19 Adversary case filed, *Waldron v. Carlson and Jane Doe 1 et al*, Case

13 No. 19-80012 commenced. (281). COMPLAINT for Recovery of

14 money/property - 548 fraudulent transfer.

15 05/10/19 Order Granting Chapter 11 Trustee's Motion for Order Approving

16 Agreement With Moses Lake Landlords. (300).

17 05/20/19 Deadline for filing claims (govt.)

18 05/20/19 Order Granting Motion to Approve Moses Lake Three-Way

19 Agreement. (309).

20 05/28/19 Order Granting Motion to Approve Compromise With Executive

21 Flight, Inc. (318).

22 08/329/19 Order Granting Request for (1) Expedited Hearing on Authority to

23 Re-Open the TNT Facility and to Borrow on Interim Basis;

24 (2) Authorizing Re-Opening of TNT Facility; and (3) Approving

25

Financing on Interim Basis With Super-Priority Unsecured Status and Order Setting Final Hearing on Request to Borrow. (365).

10/01/19 Order Granting Financing on Final Basis With Super-Priority Unsecured Status. (380).

11/14/19 Order Granting Motion to Modify the Automatic Stay regarding stipulated motion with Port of Douglas County. (417).

12/12/19 Disclosure Statement. Filed by Benjamin A Ellison on behalf of Unsecured Creditors' Committee. (431).

03/10/20 Order Granting Motion to Approve Compromise and Settlement Pursuant to FRBP 9019. (508).

03/24/20 Order Granting Relief from Stay, Abandonment of Property, and Denying Waiver of FRBP 4001(a)(3) re Creditor Chelan Douglas Regional Port Authority, formerly the Port of Douglas County. (515).

04/02/20 Order Denying Motion to Compel Trustee to Abandon and Motion for Allowance of Administrative Expenses. (526).

04/09/20 Order Granting Motion To Sell Property Free and Clear of Liens: Electrical Equipment. (540).

05/06/20 Order Granting Motion To Sell Property Under § 363(b). (589).

05/19/20 Order Approving: (1) Sale of TNT Facility and Trailer Equipment Free and Clear of Liens, Claims and Interests, Subject to Overbidding, Approving Notice Thereof; and (2) Assumption and Assignment of Leases and Power Contract. (602).

06/05/20 Adversary case, *Dam v. Waldron et al*, Case No. 20-80020. (627).

06/11/20 Order Approving Settlement With Port. (619).

1 06/25/20 Appeal to Bankruptcy Appellate Panel regarding Order on Motion to
2 Sell Property Free and Clear. (629).
3 07/02/20 Adversary Proceeding 2:19-ap-80012 Closed.
4 07/03/20 Status Report for Interim Investigatory Report. (631).
5 07/06/20 Order Granting Motion for 2004 Examination. (637).
6 09/14/20 Order Granting in part, Denying in part Motion for 2004
7 Examination. (715).
8 09/24/20 Order Granting Motion To Sell Property Free and Clear of Liens:
9 Condominium in Quincy, WA. (732).
10 09/24/20 Order Granting Motion to Approve Compromise and Settlement
11 Pursuant to FRBP 9019 With Allrise. (733).
12 09/30/20 Order Granting Motion to Convert Case from 11 to 7. (744).
13 10/20/20 Findings of Fact and Conclusions of Law in Support of Order
14 Authorizing Trustee's Sale of Moses Lake Equipment. (764).
15 10/20/20 Order Approving the Sale of Moses Lake Equipment and Related
16 Relief, and Approving Bid Procedures. (765).
17 10/23/20 Appeal Transmittal to District Court regarding Order on Motion to
18 Sell Property Free and Clear. (774).
19 10/23/20 Report of Sale. 776).
20 10/29/20 Final Account Ch 11 with Attached: Ledger Report, Operating
21 Statement, and Bank Transaction Report. (787).
22 11/16/20 Report of Sale. (802).
23 12/02/20 Order Allowing Chapter 11 Administrative Claim of Giga Plex, LLC
24 and MLDC1, LLC. (829).
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1 12/22/20 Order Converting Application for Administrative Expenses and
 2 Declaratory Relief to an Adversary Proceeding. (846).
 3 01/18/21 Deadline for objecting to discharge
 4 03/19/21 Order Granting Motion to Approve Compromise and Settlement with
 5 RI Landlord. (877).
 6 08/26/21 Adversary Proceeding 2:20-ap-80020 Closed.
 7 10/07/21 Notice of Appeal regarding Memorandum Decision 877. (923).
 8 12/13/22 Motion For Contempt Against Perkins Coie LLP, Lowell Ness,
 9 Byrnes Keller Cromwell LLP, Ralph E. Cromwell Jr., Joffrey
 10 McWilliam, MOTION for Sanctions. (Dkt 970).
 11 12/13/22 Memorandum in Support of Trustee's Motion to Find the Perkins
 12 Group in Contempt and to Impose Sanctions. (Dkt 971).
 13 01/03/23 Objection to Motion for Contempt. (Dkt 976).
 14 There are also multiple motions for compensation and compensation
 15 awards, as well as declaration and exhibits to support the motions and
 16 other activity noted on the docket.
 17 10/05/23 The Court entered an Order: (1) Approving Settlement Agreement
 18 with Perkins Coie LLP and Lowel Ness; (2) Approving Stipulation
 19 with Refael Sofair; and (3) Approving Stipulation with Timur
 20 Usmanov.
 21 11/21/23 The Court entered an Order Granting Motion for Relief From Stayfor
 22 the limited purpose of settling the *Sofair* Class Action lawsuit. This
 23 settlement agreement led to the voluntary dismissal with prejudice of
 24 a case similar to this one, captioned *Sofair v. Giga Watt, et al*, U.S.
 25

1 District Court for the Eastern District of Washington, Case No. 2:18-
2 cv-00308-SAB.

3 There are approximately 350 claims made against the bankruptcy estate,
4 with apparently only about 18 claims having been resolved.

5 The Parties believe that this report advises the Court as to the status of the
6 pending bankruptcy proceedings. However, the Parties will further supplement
7 this report if directed by the Court.

8 SUBMITTED JOINTLY this 5th day of September, 2024.
9

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